

REMARKS/ARGUMENTS

Claims 1-31, 33-34 and 36-38 stand in the present application, claims 1, 3-4, 16-17, 20, 29 and 33-34 having been amended. Reconsideration and favorable action is respectfully requested in view of the above amendments and the following remarks.

In the Office Action, the Examiner has rejected claims 1-31, 33, 34 and 36-38 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. As noted above, Applicant has corrected all the deficiencies pointed out by the Examiner in the Office Action. Accordingly, the amended claims are believed to overcome the Examiner's § 112, second paragraph rejection of the claims.

The Examiner has rejected claims 1-31 and 36-38 under 35 U.S.C. § 103(a) as being unpatentable over a combination of six prior art references including what is deemed as Applicant's admitted prior art, Brodsky et al., Burgess, Campbell, Jr. et al., Frumin et al. and Hayashi et al. The Examiner has rejected claim 3 over these same six prior art references with the addition of Fuchs et al., has rejected claim 4 as being unpatentable over the six prior art references identified above with the addition of Ehrlich, has rejected claim 33 under 35 U.S.C. § 103(a) as being unpatentable over four pieces of prior art including Applicant's admitted prior art, Brodsky, Burgess, Campbell, Jr. et al. and newly cited Fuchs et al., has rejected claim 34 under 35 U.S.C. § 103(a) as being unpatentable over the previously cited four pieces of prior art together with Ehrlich, and has rejected claims 36-38 over the six pieces of prior art applied against

claims 1-31 and 36-38 together with a seventh piece of prior art, Abe. Applicant respectfully traverses the Examiner's § 103 rejections of the claims.

The deficiencies of the Examiner relying on what is termed as Applicant's admitted prior art, Brodsky et al. and Campbell, Jr. et al. has already been discussed in detail in prior responses. For example, see the Amendment dated January 8, 2009. It is respectfully submitted that the newly cited references do not solve the deficiencies pointed out previously with respect to Applicant's admitted prior art, Brodsky et al., Burgess and Campbell, Jr. et al., nor do they teach or suggest certain claim limitations previously added to the claims as will be described in greater detail below.

It is respectfully submitted that the newly cited references, as with the previously cited art, fail to teach or suggest "read means" or "read step" for "producing an increased contrast ration between the inscribed and uninscribed glass surfaces from light introduced into glass walls of the glass receptacle at a distance to the marking and that is detecting the scattered light," as required by the present claims.

The Examiner cited Frumin et al. in order to demonstrate that "measuring the scattered light intensity" is known in the prior art. However, Frumin et al. is solely related to biological samples, such as cell structures, and does not teach or suggest an increased contrast ratio nor introducing light at a distance to the samples, as required by the present claims.

The Examiner cites Hayashi et al. in order to demonstrate that "marking resulting in changes in brightness or darkness" is known in the prior art. Such a marking, however, is not related to subject matter of Applicant's invention. In particular, the

described marking is produced by a femtosecond-laser effecting a two photon absorption in the glass walls, which leads to changes in the refractive index during the writing of that marking. Therefore, Hayashi et al. does not teach or suggest a reading procedure during which the contrast ratio is changed, nor light being introduced at a distance from the marking nor the detection of scattered light.

In summary, the newly cited references, Frumin et al and Hayashi et al., do not anticipate subject matter according to the recent claim amendments. The Examiner alleges that "the use of modern detection using changes in brightness would be obvious to a skilled person in order to monitor detailed work." However, this is not Applicant's actual claim limitations and is actually another matter and different from the present invention. The present invention requires introducing light at a distance to the marking, thus exploiting the effect that the light is transported towards the marking by means of the glass wall and within the glass wall. Furthermore, the present invention requires that scattering of that light on the code marking can be exploited for imaging the code marking with an improved contrast ratio. These actual limitations are not taught or suggested by any of the cited art.

In addition, the secondary Fuchs et al. and Ehrlich have merely been cited by the Examiner for, respectively, disclosing "large focusing depth spanning several millimeters" and keeping energy density generally below about three joules. Accordingly, it should be clear that these two references do not solve the deficiencies noted above with respect to Frumin et al. and Hayashi, nor do they solve the deficiencies noted previously with respect to Applicant's admitted prior art, Brodsky,

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Burgess and Campbell, Jr. et al. Abe has been cited merely for disclosing the depth of laser cuts, so it should be clear that it also does not overcome the deficiencies of the other references, discussed above. Accordingly, all of claims 1-31, 33-34 and 36-38 patentably define over the cited references taken either singly or in any combination.

Therefore, in view of the above amendments and remarks, it is respectfully requested that the application be reconsidered and that all of the claims standing in the application, be allowed and that the case be passed to issue. If there are any other issues remaining which the Examiner believes could be resolved through either a supplemental response or an Examiner's amendment, the Examiner is respectfully requested to contact the undersigned at the local telephone exchange indicated below.

Respectfully submitted,

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